

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH  
AT HYDERABAD  
(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF SEPTEMBER  
TWO THOUSAND AND FOUR

PRESENT  
**THE HON'BLE MS JUSTICE G.ROHINI**  
**WRIT PETITION NO : 15623 of 2004**

Between:

K. Srinivas S/o Narayana  
of Rechiniv., Tandur (M) Adilabad District

**..... PETITIONER**

AND

- 1 The Joint Collector, Adilabad
- 2 The Assistant Collector, Asifabad, Adilabad district
- 3 The Mandal Revenue Officer, Tandur Mandal, Adilabad District
- 4 The S.I of Police Tandur P.S. Adilabad District

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more in the nature of Writ of mandamus directing the respondents 2 & 3 herein to supply the essential commodities to the petitioner's fair price shop No.2 of Rechini Vg., Tandur Mandal, Adilabad District as long as his authorization is subsisting i.e. neither it is suspended nor cancelled by duly declaring the action of the respondents in not supplying the essential commodities to his fair price shop though the stocks are released in his name and arrangement made for supply of the same through another fair price shop dealer byname M.S. Kumar, Fair Price shop dealer of Kistampet Vg. as illegal arbitrary and contrary to the well settled principles of law laid down by this Hon'ble Court while adjudicating the issues involved under A.P. Schedule commodities (Regulation of Distribution by card system) order 2001

**Counsel for the Petitioner: MR.V.RAVI KIRAN RAO**

**Counsel for the Respondents: GP FOR CIVIL SUPPLIES**

**The Court made the following :**

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**ORDER:**

The petitioner is an authorized dealer of a fair price shop. According to the petitioner, the authorisation issued in his favour is subsisting and the same is neither suspended nor cancelled as on today. It is alleged that in spite of the fact that the authorisation is subsisting, the respondents failed to supply the essential commodities for distribution to the cardholders. Hence, this writ petition challenging the alleged action of the respondents 2 and 3 in not supplying the essential commodities for distribution to the cardholders.

I have heard the learned Counsel for the petitioner and the learned Government Pleader for Civil Supplies appearing for the respondents.

Even assuming that the proceedings under Section 6-A of the Essential Commodities Act, 1955 or any other enquiry with regard to the alleged irregularities in distribution of the essential commodities are pending against the dealer, the question is whether the authorities can refuse to supply the essential commodities to the dealer without either suspending or canceling the authorisation.

This issue has been considered by a Full Bench of this Court in OLETI TIRUPATHAMMA v. DISTRICT SUPPLY OFFICER (CITY), VISAKHAPATNAM AND OTHERS<sup>[1]</sup> and while concluding that in such

circumstances the proceedings under Article 226 of the Constitution of India are maintainable, it has been held as under :

*“The High Court while exercising its jurisdiction under Article 226 of the Constitution of India, acts sentinel qui vive and thus it has to protect the citizen from arbitrary and capricious action of the executive. If the licensing authority themselves upon application of mind come to the conclusion that the irregularities committed by the fair price shop dealer would warrant suspension of his licence, it may do so. But, in our considered opinion, the authority without taking recourse to the said action, cannot, refuse to supply the essential commodities.”*

In the light of the ratio laid down by the Full Bench in the above decision, the Writ Petition is disposed of with a direction to the respondents 2 and 3 to supply the essential commodities to the petitioner in case the petitioner is holding a valid authorization and the same is neither suspended nor cancelled as on today. It is made clear that this shall not preclude the respondents to initiate appropriate proceedings against the petitioner if the circumstances so warrant, following due process of law.

Writ Petition is accordingly disposed of. No costs.

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20-09- 2004.

klp

To

- 1 The Joint Collector, Adilabad
- 2 The Assistant Collector, Asifabad, Adilabad district
- 3 The Mandal Revenue Officer, Tandur Mandal, Adilabad District

- 4 The S.I of Police Tandur Police Station, Adilabad District
- 5 Two CCs to G.P. for Civil Supplies, High Court of A.P. Bldgs, Hyderabad.(OUT)
- 6 Two CD copies.

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[\[1\]](#) 2002 (1) ALT 577 (FB)